

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-CR-124

MARCUS HUTCHINS,

Defendant.

**ORDER ON DEFENDANT’S REQUEST FOR EVIDENTIARY HEARING
ON MOTION TO SUPPRESS**

Hutchins moves to suppress his post-arrest statement. (Docket # 55.) He alleges that his statement was not voluntary because he was sleep-deprived and intoxicated. (*Id.*) He further alleges that because he is a citizen of the United Kingdom, where a defendant’s post-arrest rights are very different than in the United States, he did not sufficiently understand any warnings he may have been given or rights being waived. (*Id.*) The government opposes the request for an evidentiary arguing that Hutchins fails to make the *prima facie* showing required for an evidentiary hearing. (Docket # 59.)

The government is correct that “exploration” is not a valid basis for an evidentiary hearing. An evidentiary hearing in a criminal case is also not a deposition in a civil case. However, after carefully reviewing the parties’ submissions, I will grant Hutchins’ request for an evidentiary hearing. Though not a model of what is expected under Crim. L.R. 12(c), Hutchins sufficiently alleges that at the time of his questioning “he was exhausted from partying all week and staying up the night until the wee hours.” (Docket # 55 at 4.) He also alleges that he had used drugs.” (*Id.*) Further, Hutchins alleges that the agents exploited the

fact that he was a citizen of the United Kingdom because the U.K. version of the *Miranda* warnings is different than that of the U.S. (*Id.* at 8-9.) Because these facts, if true, would be material to the voluntariness inquiry, an evidentiary hearing is warranted.

IT IS THEREFORE ORDERED THAT Hutchins' request for an evidentiary hearing is **GRANTED**.

IT IS FURTHER ORDERED THAT the Clerk of Court shall schedule the evidentiary hearing for **April 19, 2018 at 1:30 p.m.**

Dated at Milwaukee, Wisconsin this 6th day of April, 2018.

BY THE COURT

s/Nancy Joseph
NANCY JOSEPH
United States Magistrate Judge